IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JAIPUR BENCH

S.B. CRIMINAL MISC. PETITION NO.132/99

Smt. Mithlesh & Ors. **Versus** State & Anr.

DATE OF ORDER :: 01/10/2007

HON'BLE MR. JUSTICE AJAY RASTOGI

Mr. Manish Choudhary for Mr. Ashvin Garg, for petitioners
Mr. Arun Sharma, Public Prosecutor for State
Mr.Rinesh Gupta for Mr.A.K. Gupta, for respondent

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Instant petition has been filed assailing the order dated 11th January, 1999 whereby learned Executive Magistrate after taking note of contents of application filed u/ss.145-146 Cr.P.C. and so also affidavit filed in support thereof, passed ex-parte order while issuing notice to petitioner of the said application and appointed Receiver u/s.146(1) of the Code. It appears from the record that present petitioner has not cared to appear before Executive Magistrate and has straightway approached this court by filing instant misc. petition.

There is no such legal bar that if Executive Magistrate is satisfied on the perusal of complaint and so also other material on record from passing ex-parte order and to appoint Receiver with regard to property in question in exercise of power u/s.146 of the Code. Even

otherwise, if at all, the petitioner was aggrieved by the ex-parte order passed by Executive Magistrate, certainly there is an opportunity to make submission before the concerned court who has passed the impugned order dated 11th January, 1999.

Even the order passed by learned Executive Magistrate after hearing the parties, still she has a remedy of revision. In such circumstances, approaching this court u/s.482 of the Code at this stage is a clear abuse of the process of law.

Consequently, the misc. petition fails and is hereby dismissed.

[AJAY RASTOGI],J.